

REMARKS

Claims 1, 3-14 and 16-33 remain pending in the application.

Interview Summary

Applicants thank the Examiner for the Examiner initiated interview conducted on January 15, 2007 in which the Examiner proposed amendments to the claims to make them allowable. During subsequent interviews in weeks following, Applicants and the Examiner reached an agreement on amendments to the claims to make them allowable, which the Examiner was to make with an Examiner's Amendment. Instead of receiving a Notice of Allowance, the Examiner issued another rejection. To further prosecution, Applicants herein amend the claims with similar language agreed to during the Interview and further add features to distinguish more clearly over the cited prior art.

Claims 1, 3-7, 12-14, 16-21 and 26-29 over Lechleider, Bellenger and Lu

In the Office Action, claims 1, 3-7, 12-21 and 26-29 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Lechleider, U.S. Patent No. 6,091,713 ("Lechleider") in view of Bellenger *et al.*, U.S. Patent No. 6,058,110 ("Bellenger"), and further in view of U.S. Patent No. 6,870,899 to Lu *et al.* ("Lu"). The Applicants respectfully traverse the rejection.

The Applicants respectfully suggest that the need to combine THREE references is an indication of the non-obviousness of claims 1, 3-7, 12-14, 16-21 and 26-29.

Claims 1, 3-7, 12-14, 16-21 and 26-29 recite switching a combination analog/DSL modem to use a DSL portion for communication with a service provider's complementary DSL device after automated initiation of provisioning of DSL service using the combination analog/DSL modem. Provisioning of DSL service includes establishment of a communicative connection between a service line and a service provider's complementary DSL service.

Before the Applicants' invention, when a user desired DSL service, they would call a service provider and manually order service. Once ordered, a technician would go into the field to test existing lines to determine their suitability for DSL service. Once suitability is determined, a communicative connection is established between the user's computer and a service provider's complementary DSL service. Conventional provisioning of DSL service is time consuming, sometimes taking weeks to complete, and extremely labor intensive. Applicants' claimed invention overcomes the deficiencies associated with conventional initiation of DSL provisioning using a combination analog/DSL modem that can automate processes needed to establish DSL service, and then switching to DSL service once provisioning is complete. The prior art fails to disclose, teach or suggest use of a combination analog/DSL modem to automate initiation of provisioning at all, much less to switch to DSL service after automated initiation of provisioning, much less in the manner claimed.

Lechleider teaches two V.34 modems to collect information about the analog properties of an end-to-end connection through use of a screeching phase (see col. 5, lines 56-62). Lechleider fails to disclose, teach or suggest a combination analog/DSL modem at all, much less use of a combination analog/DSL modem to automate initiation of provisioning of DSL service, as recited by claims 1, 3-7, 12-14, 16-21 and 26-29.

The Examiner acknowledged that Lechleider does not "explicitly disclose the use of an analog/DSL modem wherein a service line of said subscriber connected to said combination analog/DSL modem is not provisioned for DSL service until the suitability of the service line is tested." (see Office Action, page 3). But, the Examiner relies on Bellenger to allegedly make up for these significant acknowledged deficiencies in Lechleider to arrive at the claimed features. The Applicants respectfully disagree.

Bellenger appears to disclose a modem that operates in a plurality of bands, with operation in the DSL band if the telephone line is capable of carrying signals in the DSL band (see Bellenger col. 2, lines 57-67). The modem can operate in both the voice band and the ADSL band to extract all the available

bandwidth of a telephone subscriber loop (see Abstract; Bellenger, col. 2, lines 57-67).

Bellenger teaches a modem that can operate in both a voice band and an ADSL band. However, Bellenger's modem switches between the voice band and the ADSL band if a telephone line is capable of carrying a high data rate (col. 14, lines 50-52). Bellenger switching is not switching an analog/DSL modem into service, as recited by claims 1, 3-7, 12-14, 16-21 and 26-29.

The Examiner relies on Lu's Background to allegedly disclose provisioning of a DSL line (see Office Action, page 5). Lu's invention is a loop qualification system that performs an evaluation of a loop prior to its provisioning to determine if it qualifies for DSL service (see Lu, col. 5, lines 12-23). Lu's loop qualification system fails to disclose, teach or suggest use of a modem at all within the loop qualification system, much less a combination analog/DSL modem, much less switching a combination analog/DSL modem to use a DSL portion for communication with a service provider's complementary DSL device after automated initiation of provisioning of DSL service, as recited by claims 1, 3-7, 12-14, 16-21 and 26-29.

Thus, even the strained combination of Lechleider, Bellenger, and Lu, either alone or in combination, fail to disclose, teach or suggest switching a combination analog/DSL modem to use a DSL portion for communication with a service provider's complementary DSL device after automated initiation of provisioning of DSL service, as recited by claims 1, 3-7, 12-14, 16-21 and 26-29.

Accordingly, for at least all the above reasons, claims 1, 3-7, 12-14, 16-21 and 26-29 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Claims 8-11, 22-25 and 30-33 over Lechleider, Bellenger, Lu and Vogt

In the Office Action, claims 8-11, 22-25 and 30-33 were rejected under 35 USC § 103(a) as allegedly being obvious over Lechleider, Bellenger, and Lu, and further in view of U.S. Pat. No. 5,625,667 to Vogt, III *et al.* ("Vogt"). The Applicants respectfully traverse the rejection.

The Applicants respectfully suggest that the need to combine FOUR references is a further indication of the non-obviousness of claims 8-11, 22-25 and 30-33.

Claims 8-11 are dependent on independent claim 1, claims 22-25 are dependent on independent claim 16, and claims 30-33 are dependent on independent claim 27. Claims 8-11, 22-25 and 30-33 are patentable over the prior art of record for at least the same reasons as claims 1, 16 and 27 respectively.

Claims 8-11, 22-25 and 30-33 recite switching a combination analog/DSL modem to use a DSL portion for communication with a service provider's complementary DSL device after automated initiation of provisioning of DSL service.

As discussed above, Lechleider, Bellenger and Lu, either alone or in combination, fail to disclose, teach or suggest switching a combination analog/DSL modem to use a DSL portion for communication with a service provider's complementary DSL device after automated initiation of provisioning of DSL service, as recited by claims 8-11, 22-25 and 30-33.

The Examiner relied on the fourth reference Vogt to allegedly disclose tip and ring voltage that can be measured to calculate the capacitance and resistance of a telephone line and measurement of parameters of a telephone line to detect potential problems (see Office Action, pages 11 and 12). However, Vogt fails to disclose, teach or suggest use of a combination analog/DSL modem at all, much less switching a combination analog/DSL modem to use a DSL portion for communication with a service provider's complementary DSL device after automated initiation of provisioning of DSL service, as recited by claims 8-11, 22-25 and 30-33.

Thus, even the four separate references Lechleider, Bellenger, Lu and Vogt, either alone or in combination, fail to disclose, teach or suggest switching a combination analog/DSL modem to use a DSL portion for communication with a service provider's complementary DSL device after

automated initiation of provisioning of DSL service, as recited by claims 8-11, 22-25 and 30-33.

Accordingly, for at least all the above reasons, claims 8-11, 22-25 and 30-33 are patentable over the prior art of record. It is therefore respectfully requested that the rejections be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,



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